

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3297-05
Bill No.: Perfected HS for HB 1339
Subject: Abortion; Health Care; Health Care Professionals; Hospitals; Physicians
Type: Original
Date: April 28, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator**, the **Department of Economic Development - Division of Professional Registration**, and the **Department of Health and Senior Services** assume this proposal would not fiscally impact their agencies.

Officials from the **Department of Social Services (DOS)** did not respond to our fiscal note request. In a previous note, the DOS assumed this proposal would not fiscally impact their agency.

Officials from the **Office of Attorney General (AGO)** assume this proposal would create a fiscal impact. The AGO further assumes that costs cannot be estimated due to insufficient information as to the potential number of injunctive actions that may be required to be filed.

Oversight assumes the AGO could absorb any additional costs.

Officials from the **Department of Corrections (DOC)** did not respond to our fiscal note request. In a similar proposal, the DOC stated currently, the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An

ASSUMPTION (continued)

increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

DOC states if additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

DOC states supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal revises provisions relating to abortions.

The proposal revises a penalty provision pertaining to the performance of actions contrary to current law and the nonperformance of required actions under current law. A defense of performing or not performing an action due to a medical emergency is established.

The proposal creates the definition for "medical emergency."

The proposal creates the definition for "next friend".

DESCRIPTION (continued)

The proposal provides that any physician performing an abortion who does not have clinical privileges to provide obstetrical or gynecological care at a hospital located within 30 miles of the location at which the abortion is performed, shall be guilty of a class B felony.

The proposal also prohibits a person from intentionally causing, aiding, or assisting a minor to obtain an abortion without the informed consent or judicial decree required by Section 188.028, RSMo. Any person who violates this provision will be civilly liable to persons adversely affected by the action. If civil liability is established, a court may award damages, including attorney fees and court costs to any person adversely affected by a violation including compensation for emotional injury without the need for personal presence at the scene of any act or even, and the court may further award attorneys' fees, litigation costs, and punitive damages. Except that no person who has committed or knowingly allows to be committed an act of rape or incest against a minor child who subsequently obtains an abortion may be awarded damages.

The proposal does not allow a defense to a claim which asserts that the abortion was performed in accordance with the required consent of the state or place where the abortion was performed. The bill also contains a provision which prohibits an unemancipated minor from having the capacity to consent to any action in violation of the bill or Section 188.028.

A court may enjoin conduct in violation of the proposal upon a petition by the Attorney General, a prosecuting attorney or circuit attorney, or a person adversely affected or who may be adversely affected. In order for a court to enjoin any violation, the bill requires that there must be a showing that the conduct has occurred in the past and that it is not unreasonable to expect that the conduct will be repeated or that the conduct is reasonably anticipated to occur in the future.

Clarifies the definition of "ambulatory surgical center".


This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Court Administrator
Office of Attorney General
Department of Health and Senior Services
Department of Economic Development - Division of Professional Registration

NOT RESPONDING: Department of Social Services and the Department of Corrections

Mickey Wilson, CPA

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Director
April 28, 2004